

Alabama Underground Damage Prevention Legislation Update

ALABAMA



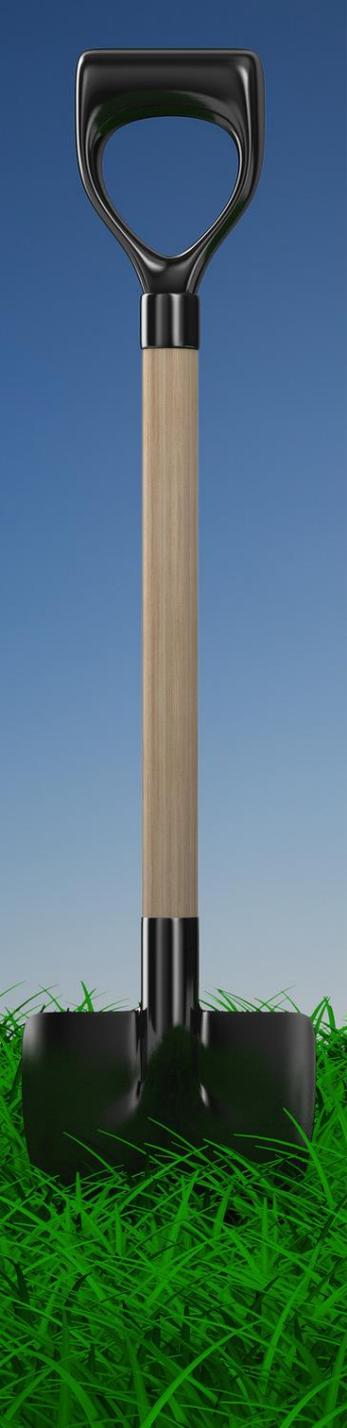
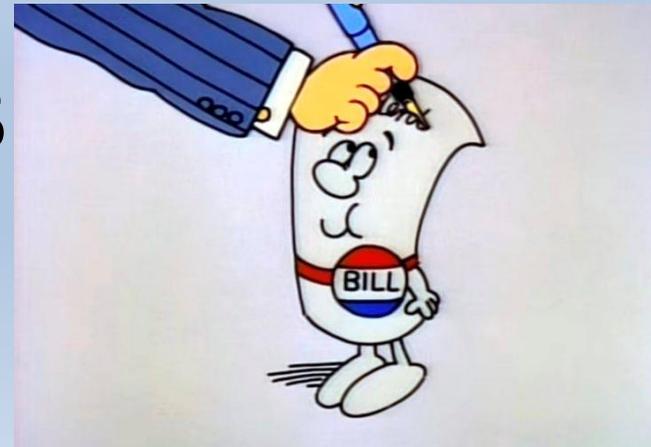
Senate Bill 315

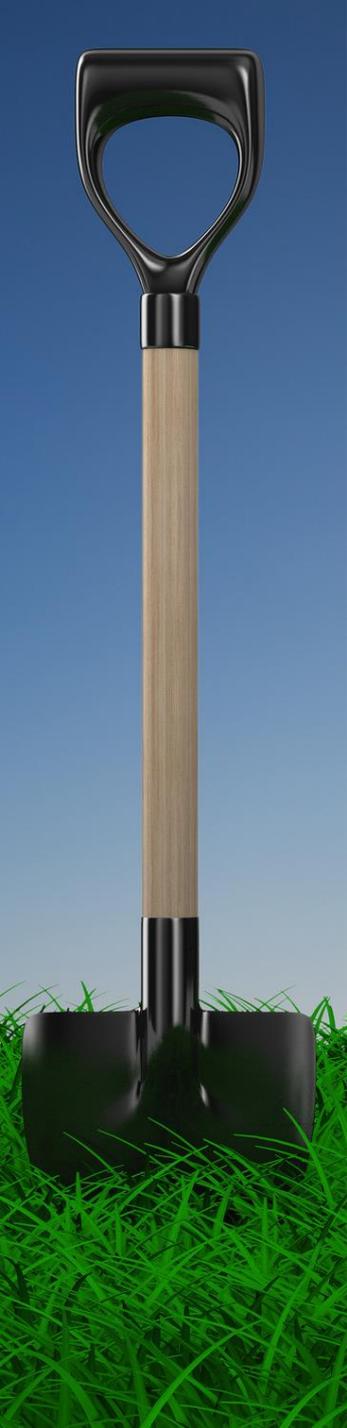
Signed into Law on June 6, 2019

Addresses Key Areas:

- Membership
- Enforcement
- Operational Changes

Alabama Title §37-15





Operational Changes

§37-15-4 – Notice of Intent to Excavate

(b) Notification Period: Notice of intent to excavate must be given at least two but no more than 10 working days prior to the start of proposed excavation **not including the day of notification.**

Notice of intent to demolish must be given at least two working days and no more than 30 calendar days, **not including the day of notification.**

(d) Ticket Life: Notification of an intent to excavate shall be valid for a period of **20** working days from the proposed start date given for excavation and **30** working days from the start date given for demolition.



TWO WORKING DAYS



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Day of Notification						



TWO WORKING DAYS

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
proposed start date						
	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Day 7						
	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10



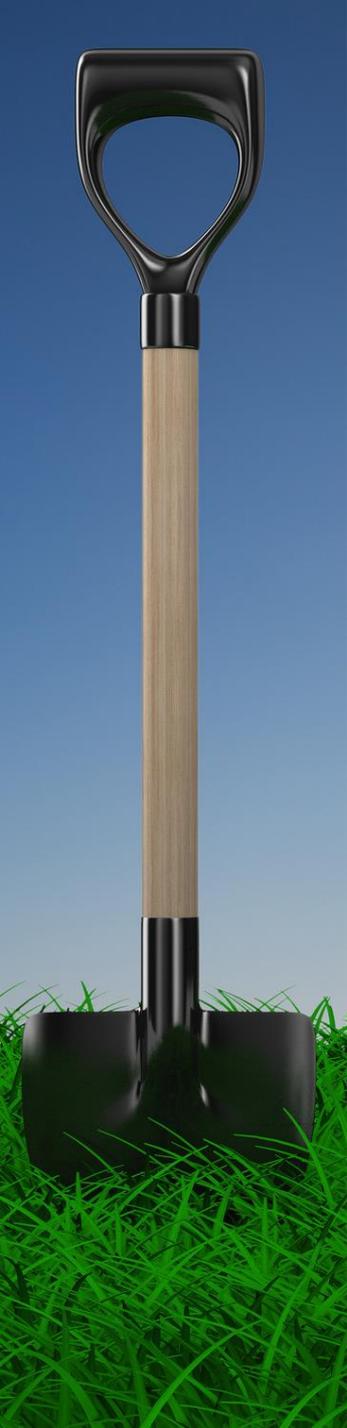
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Day 12						
	Day 10	Day 11	Day 12	Day 13	Day 14	Day 15



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Date of Renewal Notification						
	Day 15	Day 16	Day 17	Day 18	Day 19	Day 20



TWO WORKING DAYS

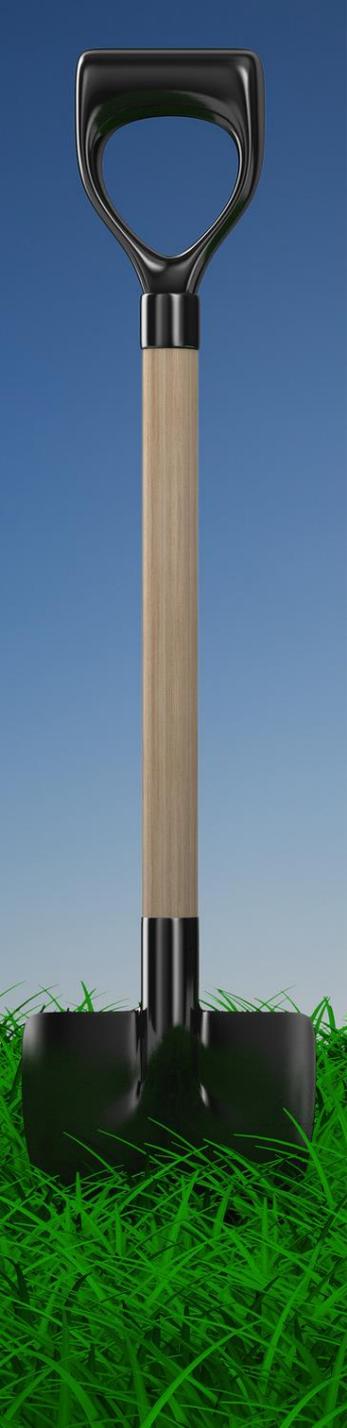


Operational Changes

§37-15-4 – Notice of Intent to Excavate

(c) Premark: In the event the location requirements of this subsection can not met, the excavator shall ***premark*** the route or boundaries of the site of proposed excavation or demolition by means of white as the identifying color on stakes, flags, paint, buoys or clearly identifiable materials placed on the surface of the ground or water ***prior to the notification to the One Call Notification System. However, premarking is not required when the premarking could reasonably interfere with traffic or pedestrian control.***

Definition of Premark: To delineate the general scope of the excavation on the surface of the ground using white paint, white stakes, or other similar white markings.



Operational Changes

§37-15-4 – Notice of Intent to Excavate

- (i) Any person who complies with the notification requirements of this chapter is not liable for damage to an operator's underground facility if all of the following are satisfied:
- 1) The operator received the notification required by Section 37-15-4
 - 2) The operator failed to locate its underground facilities as required by Section 37-15-6
 - 3) The damage is a proximate result of the operator's failure to locate its underground facilities as required by Section 37-15-6

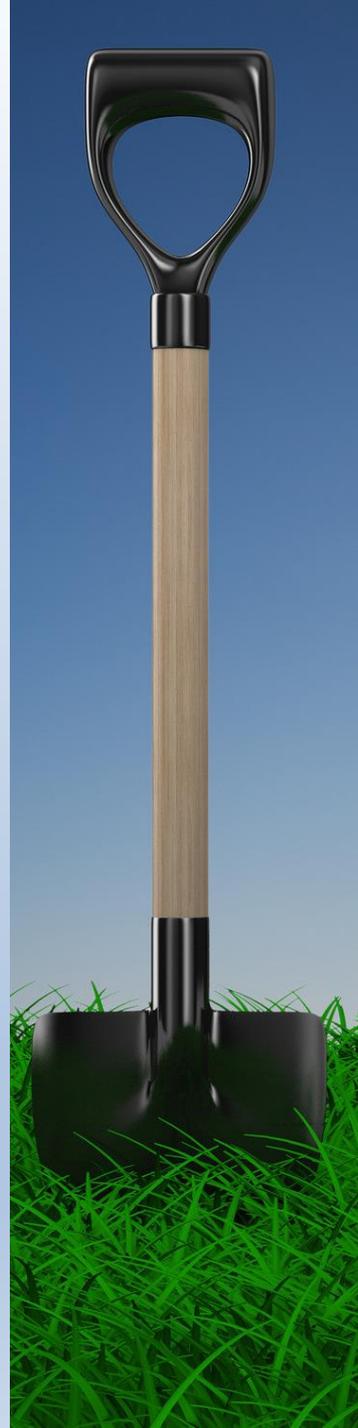
Membership Changes

§37-15-5 – Underground Damage Prevention Program

(a) (1) Operators who have underground facilities within this state shall participate in ***and utilize the services of the*** One Call Notification System.

Tiered membership requirements

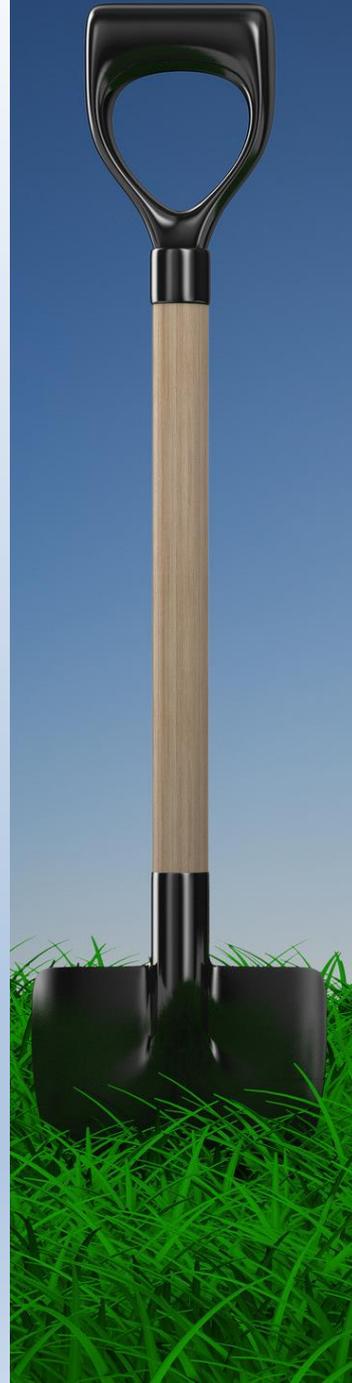
- ***January 1, 2020 – Operators who are current members must remain members***
- ***January 1, 2021 – Operators with more than 25K customers or 500 miles of underground must become members***
- ***January 1, 2022 – All remaining operators must become members***



Membership Changes

§37-15-5 – Underground Damage Prevention Program

- (a) (5) Operators of electrical underground facilities who join the One Call Notification System under the requirements of subdivision (a) (3) or (4) having less than 5% underground trench miles compared to the total miles of line, is not subject to the membership costs until their underground trench miles exceed the trench mile exemption. These operators will be required to report annually to the One Call Notification System their percentage of underground trench miles by the end of each calendar year.***

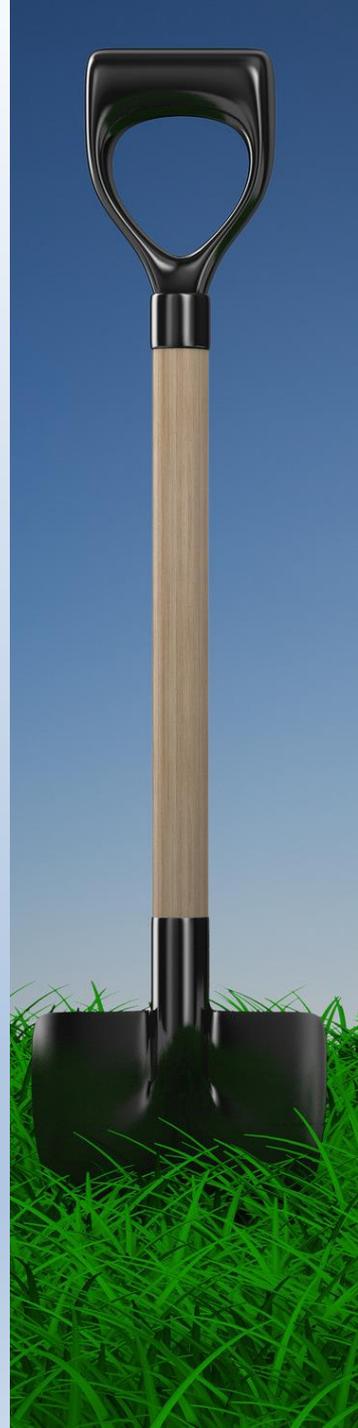


Membership Changes

§37-15-5 – Underground Damage Prevention Program

(a) (6) If an operator fails to become a member as required, and that failure is a cause of damage to the underground facility caused by a person who has complied with the law and exercised reasonable care during excavation activities that caused the damage the operator has no right of recovery against the person for the damage to that facility.

(7) The membership provision is repealed after 7 years from the effective date of the bill (1/1/27).



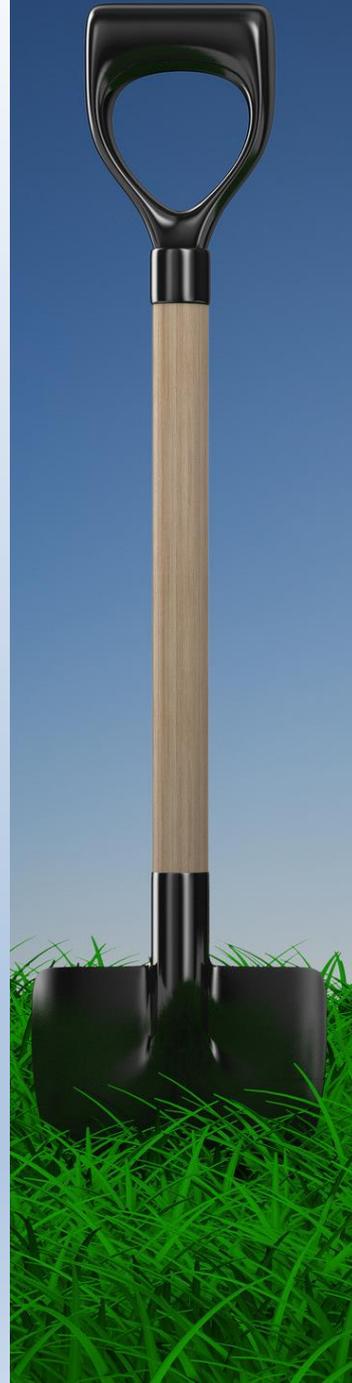
One Call Notification System

§37-15-5 – Underground Damage Prevention Program

(b) The One Call Notification Center must provide a report of operations and financial review or audit to the PSC annually.

(c) A statewide One Call Notification Center

(d) The one call shall be governed by a board of directors representing its membership in accordance with the one call center by-laws.



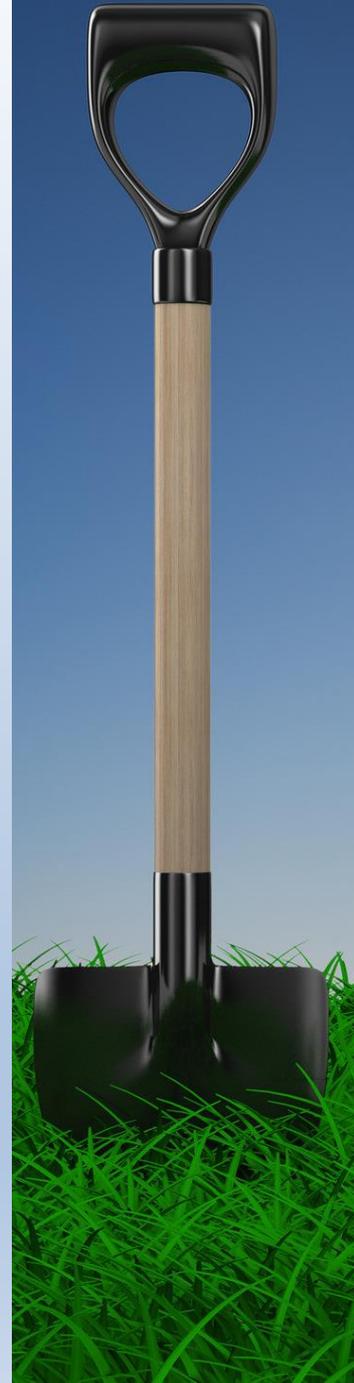
One Call Notification System

§37-15-5 – Underground Damage Prevention Program

(h) The services of the One Call Notification System should be provided on working days ***in accordance with the established working day hours.***

Working Day Hours: *The time defined from 7:00 am to 5:00 pm local time on working days.*

Working Day: *A 24 hour period commencing the beginning of the start of the next working day.*

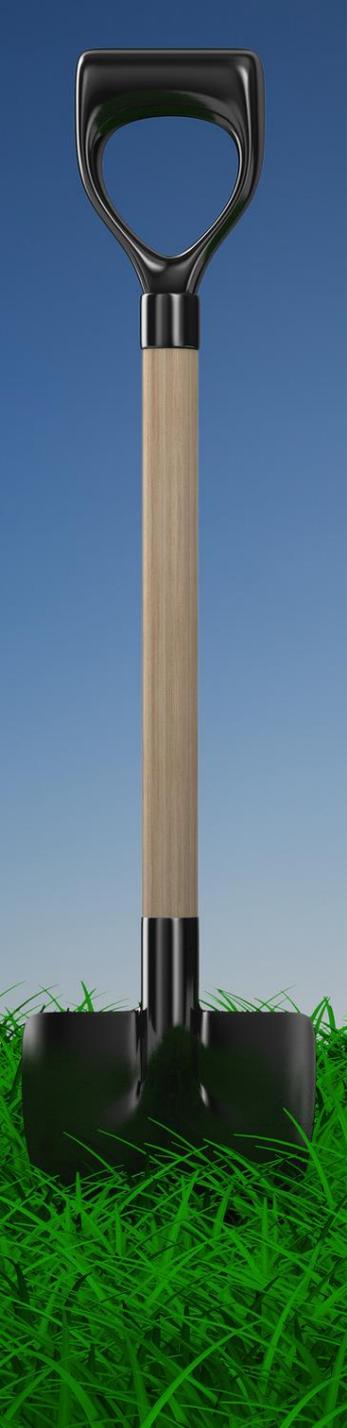


Operator Response

§37-15-6 – Response to Notice of Intent to Excavate or Demolish

(a) (3) A member operator that states that it does not have accurate information concerning the exact location of its underground facilities is exempt from the requirements under Section 37-15-6 but shall provide the best available information to the person excavating in order to comply with requirements of this section. A person excavating is not liable for an damage to an underground facility under the exemption in this subdivision if the excavation or demolition is performed with reasonable care as noted in Section 37-15-8 and the excavator uses deduction equipment or other acceptable means to determine the location of the underground facilities.





Positive Response Effective 1/1/21

§37-15-6 – Response to Notice of Intent to Excavate or Demolish

(d) Each operator, upon determining that no underground facility is present on the tract or parcel of land or upon completion of the marking of the location of any underground facilities on the tract or parcel of land shall provide a positive response with the information to the One Call Notification System in accordance with the procedures developed by the One Call Notification System.

Positive Response defined as the communication among member operators, persons excavating and the One Call Notification System concerning the status of locating an underground facility.

http://www.al811.com/positive_response.pdf

Positive Response is Required by Law

Effective January 1, 2021 all members of Alabama 811, must provide a positive response to locate request notifications, This is in accordance with the Alabama Underground Damage Prevention Act Section 37-15-6(d): Each operator, upon determining that no underground facility is present or upon completion of the marking of the location of any underground facilities, shall provide a positive response with the information to Alabama 811.

What is Positive Response?

Positive Response is a process to facilitate communication between utilities, excavators and Alabama 811, regarding the status of identifying and marking the underground facilities within the proposed area of excavation on locate request tickets.

What Type of Responses Can Be Submitted?

The following are the different response actions to select from when responding:

name	description
No Response from member facility owner/operator	System generated code for no response to positive response system
Located: Facilities Marked	Facilities Marked
Located: To Meter Only	Private Property Beyond Meter
Located: In Conflict	Facility owner/operator should be on site during excavation
Clear: No Conflict for Area Requested	No facilities in the area requested for excavation
Unmarked: Unable to Access Locate Request Area	Unable to access area noted for locate request
Unmarked: Incorrect Address or Excavation Site Info insufficient info	Info incorrect - contact AL811 for new locate request
Unmarked: Marking Information Unclear - Locator to Contact Excavator	info unclear - excavator to be contacted directly
Unmarked: Unable to Contact Excavator	Needed additional info - unable to reach excavator
Unmarked: Delayed due to Weather or Other Circumstances	Delayed - need to contact locator or facility owner/operator directly
Unmarked: Cannot locate - contact facility owner/operator directly	Unable to locate - need to contact facility owner/operator directly
Unmarked: Facility Owner/Operator or Master Contractor Generated Request	Facility owner/operator or master contractor responsible for marking
Design/Survey Locate: Marked	Physical markings completed at excavation site
Design/Survey Locate: Cleared No Conflict	No facilities in the area requested for design/survey site
Design/Survey Locate: Facility Owner/Operator to Provide Maps	Facility owner/operator will provide maps or access to maps
Design/Survey Locate: Meeting Requested	Facility owner/operator will contact to set up meeting arrangements
Other: Parties Have Agreed and Documented Locating Schedule	Parties have met and made locating schedule arrangements

How Do I Submit Responses?

Alabama 811 members can submit responses through Alabama 811 WebPortal, the KorWeb ticket management software or a compatible in-house ticket management system.

- [Positive Response option for HIGH VOLUME tickets](#) - For members that receive a high volume of locate requests, use a ticket management system or use your own response system, you will want to register for the automated upload to the positive response servers. Please indicate your interest on the registration form. Alabama 811 will provide documentation outlining the set-up needed to enter responses into the positive response system.
- [Positive Response for the Alabama 811 WebPortal and Mobile App](#) - The Alabama 811 WebPortal and the Alabama 811 Mobile App are resources available to members to document and record their responses to the locate request notifications received. The excavators will have the ability to look up the ticket and view the responses from members on the locate requests. The responses submitted will inform the excavators if utilities have been marked, are clear of the excavation area or that other information is needed. Registration to use the WebPortal is required.

If you would like to submit responses for you company, click here to fill out the [registration form](#) or contact Jennifer Lee for more info: jlee@al811.com or 205.731.3210

Please prepare to have the following information ready:

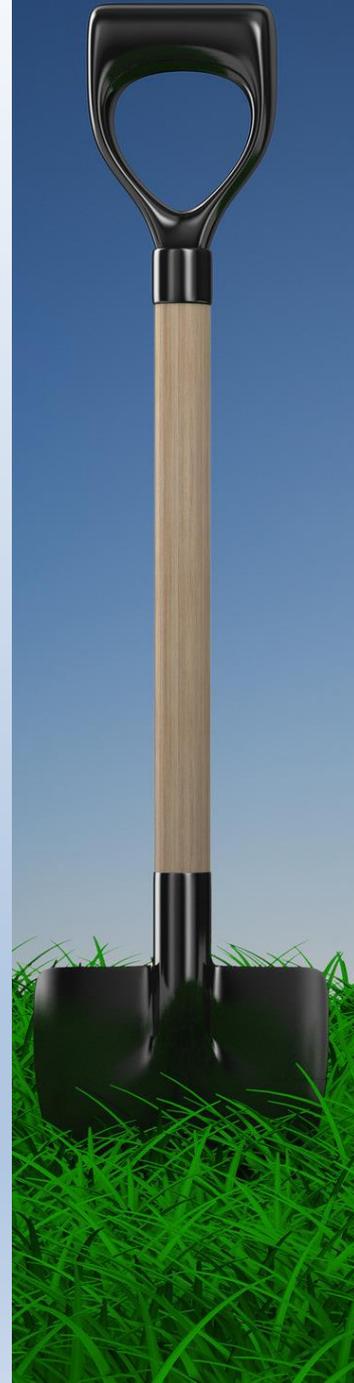
- Contact information for each user, such as name, email and phone number. Each user will need their own unique email address.
- Company information such as Name, Address, Phone number
- List of dispatch codes under your membership that should be linked to the user
- List of the registered facility types for each dispatch code
- Names of personnel responsible for responding to locate requests for each code and each facility type, more than one user may register to respond
- A registration form will need to be completed for each user.

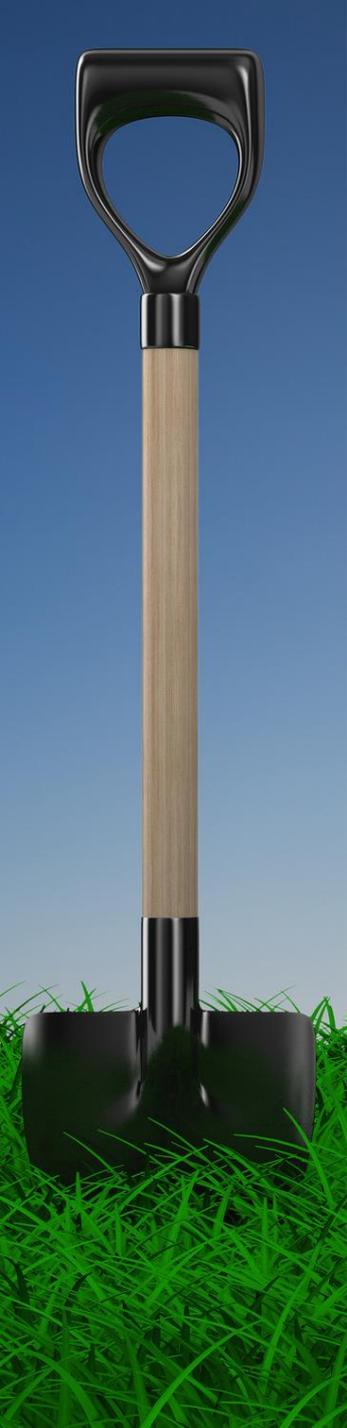
Year End Reporting

§37-15-9 – Excavation or Demolition Damage

(c) If an event damages any pipe, cable or its protective covering, or other underground facility, or there is a significant near miss that could be resulted in a damage, the operator receiving the notice shall file a report with the One Call Notification System. Reports must be submitted annually, no later than March 31st for the prior calendar year, or more frequently at the option and sole discretion of the operator. Each report must describe, if known, the cause, nature, and location of the damage. The One Call Notification System shall establish and maintain a process to facilitate submission of reports by operators or persons excavating.

Near Miss: An event where damage did not occur, but a clear potential for damage was identified.





Enforcement

§37-15-10 – Civil Penalties and Enforcement

Defined Violation Penalties

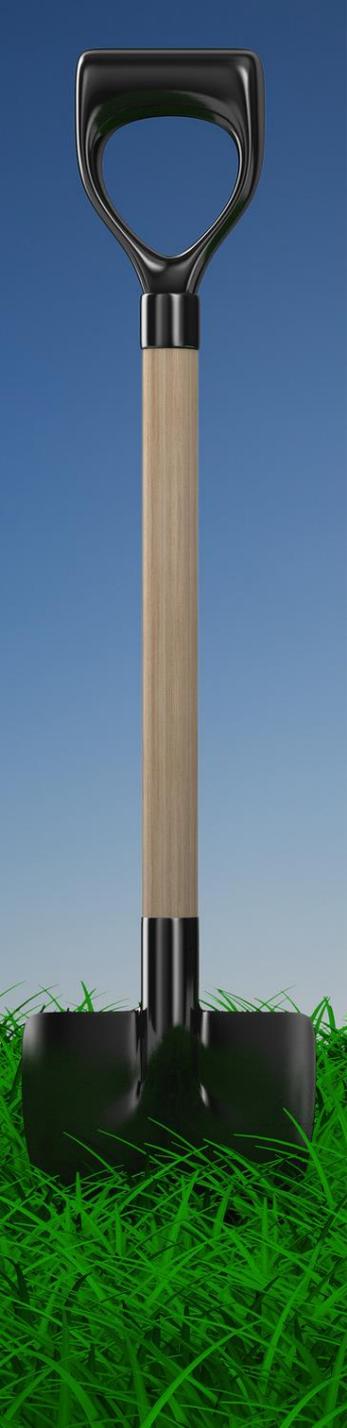
1st Violation – Complete a course of training and/or pay a civil penalty not to exceed \$500 per incident

2nd Violation – Complete a course of training and/or pay a civil penalty not to exceed \$1,000 per incident

3rd Violation – Complete a course of training and pay a civil penalty not to exceed \$3,000 per incident.

Gross negligence or willful noncompliance – Complete a course of training and pay a civil penalty not to exceed \$10,000 per incident.





Enforcement

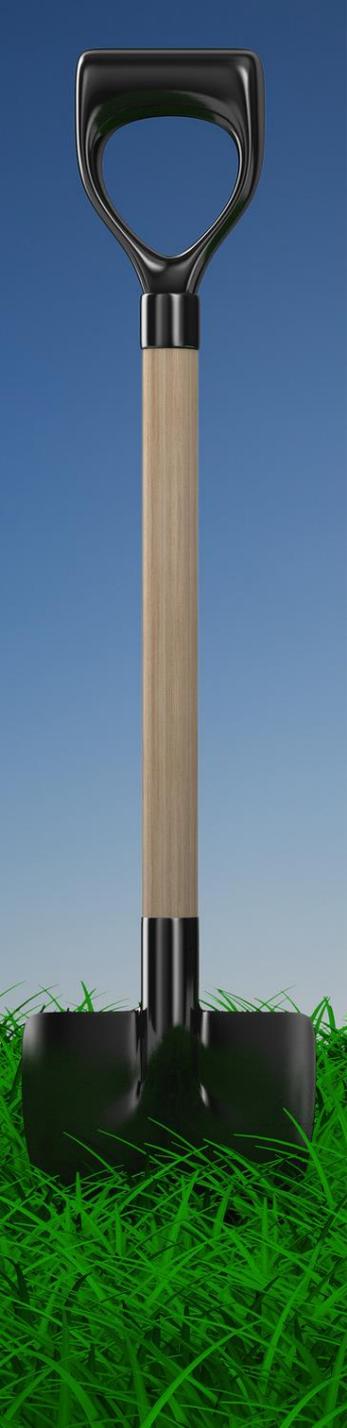
§37-15-10 – Civil Penalties and Enforcement

Willful Noncompliance – the intentional refusal or failure to perform, or comply with, a duty created or imposed by this chapter or by the rules promulgated pursuant to this chapter.

- ***A person required to complete a course of training shall be responsible for paying for the training.***
- ***If person is a firm, partnership, etc it may be required that at least one manager or supervisor be required to attend.***

All penalties collected shall be paid to the Underground Damage Prevention Fund. Funds will be used to carry out the functions of the Underground Damage Prevention Authority.





§37-15-10.1 – Enforcement Authority

- ***Establishes the Underground Damage Prevention Authority for the purpose of enforcing the law, reviewing the penalty provisions and the adequacy of the enforcement process.***
- ***Composed of a Governor appointed board of 17 underground facility protection stakeholders established within 90 days of effective date.***
- ***Alabama PSC will provide administrative support. Designated that the PSC authority is for the administrative capacity only and nothing in this chapter shall expand the jurisdiction of the AL PSC.***

Authority Board Makeup

- Attorney General's Office
- AL PSC – Gas Pipeline Safety
- ALDOT
- AL County Engineers
- Cable Television
- Electric Utility
- Municipal Utility
- Natural Gas Distribution
- One Call Notification Center
- Professional Excavator
- Professional Road Builder
- Professional Land Surveyor
- Telecommunications
- Transmission Pipeline
- Utility Facility Locator
- Water Utility
- Wastewater Utility



Enforcement Process Within Underground Damage Prevention Authority Board



Timeline Summary

Notification
Period
extended not
including day
of notification

Life of locate
request
extended to
20 working
days

Process for
Damage
Reporting

Establishment
of Authority
Board

January 2020

Operators
with more
than 25K
customers or
500 miles of
underground

Positive
Response

January 2021

Operators
with less than
25K
customers or
less than 500
miles of
underground

January 2022